

REMARKS

Claims 1-8 are pending in this application. By this Amendment, claims 1 and 7 are amended. Reconsideration is respectfully requested.

Applicant gratefully acknowledges the courtesies extended to Applicant's representative at the personal interview conducted March 3, 2005. The substance of the interview is incorporated in the following remarks, which constitute Applicant's record of the interview.

The Office Action objects to Fig. 1 because it should be designated by a legend such as --prior art--. By this Amendment, Fig. 1 is amended to include such a legend, thereby obviating this grounds of objection.

The Office Action objects to the drawings because they do not include reference number 280 mentioned in paragraph 45, or reference number 500 mentioned in paragraph 95. By this Amendment, paragraphs 45 and 95 are amended, to eliminate the reference numbers 280 and 500. Accordingly, Applicant respectfully requests that the objection to the drawings be withdrawn.

The Office Action objects to the specification for informalities. By this Amendment, paragraphs 24, 42 and 89 are amended as suggested by the Office Action. Applicant respectfully requests that the objection to the specification be withdrawn.

The Office Action rejects claim 1 under 35 U.S.C. §112, second paragraph for failing to provide sufficient antecedent basis for the limitation "the at least one part of the current stage simplified programming element." By this Amendment, claim 1 is amended to obviate this grounds of rejection. Applicant respectfully requests that the rejection of claim 1 under 35 U.S.C. §112, second paragraph be withdrawn.

The Office Action rejects claims 1, 3-6 and 7 under 35 U.S.C. §101 as being directed to non-statutory subject matter. The Office Action asserts that claim 1 does not include an

embodiment in a tangible medium such as a computer or a computer-readable medium. However, the preamble of claim 1 recites "a method for simplifying a programming element that is compilable into instructions for operating a data processing device," and therefore the tangible medium is the data processing device. The method recites the steps of simplifying, determining, associating and simplifying a programming element which is compilable into instructions for operating a data processing device. Since claim 1 recites a new and useful method for producing instructions for operating a data processing device, claim 1 is clearly directed to statutory subject matter. Applicant respectfully requests that the rejection of claims 1 and 3-6 under 35 U.S.C. §101 be withdrawn.

Claim 7 is amended to recite a method for executing a computation on a data processing device, and therefore is directed to statutory subject matter for similar reasons as discussed above with respect to claim 1. Applicant respectfully requests that the rejection of claim 7 under 35 U.S.C. §101 be withdrawn.

The Office Action rejects claims 1-8 under 35 U.S.C. §102(e) over U.S. Patent No. 6,745,384 to Biggerstaff. This rejection is respectfully traversed.

The Federal Circuit, as recently as August 31, 2004, in *Home Diagnostic, Inc. v. Life Scan, Inc.*, Appeal No. 03-1370, stated that "...a patent applicant may define a term in prosecuting a patent," citing *CCS Fitness, Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1366 (Fed. Cir. 2002) where the Court stated that "a claim term will not receive its ordinary meaning if the patentee acted as his own lexicographer and clearly set forth a definition of the disputed claim term in the specification or prosecution history." (See also MPEP §2173.01.)

As discussed during the personal interview, the term "propagator" is defined on page 27, lines 27-29 of the specification, for example, as "a form that is matched against the terms of an appropriate stage and then allowed to post information about projections of the

term or sub-terms of the term." According to the specification on page 9, lines 29-33, "a propagator is run when a particular program element has been simplified to a suitable stage. The propagator will run on each matching significance and may examine and update one or more projections of such a matching significance and the arguments of any such matching significance." Further, on page 10, line 4 of the specification discloses that "propagators can do both upward and downward data flow."

The Office Action correlates the propagator recited in claim 1 to a modifier that anticipates "optimizations that will be needed later," as disclosed in col. 6, lines 35-39 of Biggerstaff. However, the "modifier" of Biggerstaff does not match any of the definitional descriptions of the propagator of the specification. According to Biggerstaff, "the adornments specific to loop merging are enhanced with modifiers that anticipate optimizations that will be needed later during composite folding." Thus, the modifier of Biggerstaff is an enhancement of the "adornment specific to loop merging." Accordingly, the concept of a propagator as defined in the specification and used in the claims is not disclosed in Biggerstaff.

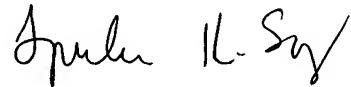
Claim 7 is amended to explicitly recite "determining at least one propagator" and claim 8 recites "invoking a propagator." For at least these reasons, Biggerstaff does not disclose each and every feature recited in independent claims 1, 7 and 8.

Claims 2-6 depend from claim 1, and are therefore patentable at least for the reasons set forth above with respect to claim 1, as well as for the additional features that they recite. Accordingly, as agreed to during the personal interview, Applicant respectfully requests that the rejection of claims 1-8 under 35 U.S.C. §102(e) be withdrawn.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-8 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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JAO:JKS/djb

Attachment:

Replacement Sheet (Fig. 1)

Date: March 4, 2005

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DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 24-0037
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Amendments to the Drawings:

The attached replacement drawing sheet makes changes to Fig. 1 and replaces the original sheet with Fig. 1.

Attachment: Replacement Sheet